

## **REMARKS/ARGUMENTS**

Claims 1-24 are pending. In the Office Action, Claims 1-24 were treated as follows:

1. Claims 1-11 and 13-23 were rejected under 35 U.S.C. § 103(a) as being obvious considering Published U.S. Patent application No. 2002/0147739 to Clements, et al. (hereinafter “*Clements*”) in view of Published U.S. Patent application No. 2003/0110504 to Plourde et al. (hereinafter “*Plourde*”), and in further view of Published U.S. Patent application No. 2002/0165912 to Wenocur et al. (hereinafter “*Wenocur*”).
2. Claims 12 and 24 were objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form.

In the interest of advancing prosecution, Claims 1, 12-13, and 24 are presently amended. Applicants thank the Examiner for briefly discussing the Office Action by phone on September 4, 2008. As discussed during that interview, Applicants have herein filed amendments to independent Claims 1 and 13 that are believed to capture in substance the allowable subject matter from Claims 12 and 24.

### **35 USC § 103 Rejections**

Claims 1-11 and 13-23 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by *Clements* in view of *Plourde* and *Wenocur*. Without conceding the propriety of the rejections in the Office Action, Applicants respectfully submit that Claims 1-11 and 13-23, as currently amended, are in condition for allowance.

In the Office Action, Claims 12 and 24 were found to recite allowable subject matter, beign objected to only for depending from rejected base claims. By current amendment, nonobvious elements from Claims 12 and 24 have been incorporated into Claims 1 and 13, respectively. Specifically, amended Claim 1 recites as follows:

A method of storing streamed presentation data within a container file, the method executing on a consumer digital content playback device, the method comprising:

receiving one or more data streams from each of one or more presentation sources within the presentation;

creating within the container file, a virtual file for each of the one or more presentation sources;

temporarily storing first data associated with a first data stream of a first presentation source in association with a first virtual file corresponding to the presentation source;

determining a container file size of the container file;

temporarily storing additional data from the first data stream in place of at least a portion of the first data if the container file size is within a predetermined range of an identified maximum buffer size; ~~and~~

**receiving a user indication identifying a location corresponding to a time (T) within the presentation;**

**identifying a seek position for each virtual file; and**

**contemporaneously rendering in real-time, data stored in each virtual file at the respective seek positions.**

Claim 13 recites similar elements as a machine readable medium. Applicants respectfully submit that amended Claims 1 and 13 are in condition for allowance at least because they recite elements from Claims 12 and 24 that were determined to be patentable over the prior art of record.

Specifically, Applicants respectfully submit that none of the prior art of record, alone or in combination, teaches or suggests, “receiving a user indication identifying a location corresponding to a time (T) within the presentation; identifying a seek position for each virtual file; and contemporaneously rendering in real-time, data stored in each virtual file at the respective seek positions,” as claimed in Claims 1 and 13.

While Applicants maintain that Claims 2-11 and 13-23 are allowable for at least the reasons discussed in Applicants’ response filed on April 17, 2008, Applicants also respectfully submit that Claims 2-11 and 13-23 are allowable at least by dependency.

Applicants can discern nothing in the prior art made of reference and not relied upon that would, when read as a whole, anticipate or render obvious any of Claims 1-24.

## CONCLUSION

For at least the reasons above, Applicants respectfully submit that Claims 1-24 are allowable and request that the Examiner permit these claims to proceed to issuance. Although additional arguments are believed to exist for distinguishing the cited documents, including those presented in Applicants' response filed on April 17, 2008, the amendments presented are believed sufficient to address the Examiner's rejections. Likewise, failure of the Applicants to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing amendments, and it is therefore not believed necessary to respond to every position taken by the Examiner with which Applicants do not agree.

The Examiner is respectfully requested to contact the undersigned at the telephone number below if there are any remaining questions regarding this application.

We believe the appropriate fees accompany this transmission. If, however, insufficient fee payment or fee overpayment occurs, the amount may be withdrawn or deposited from/to AXIOS Law Group's deposit account. The deposit account number is 50-4051.

Respectfully submitted,

AXIOS LAW GROUP

Date: September 18, 2008

by: /Adam L.K. Philipp/

Adam L.K. Philipp

Reg. No.: 42,071

Direct Dial: (206)217-2226

AXIOS Law Group  
1525 4th Avenue, Suite 800  
Seattle, WA 98101  
Telephone: 206-217-2200